



General Assembly

Amendment

June 11 Special Session, 2008

LCO No. 6833

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Offered by:

REP. CAFERO, 142nd Dist.

SEN. MCKINNEY, 28th Dist.

To: Senate Bill No. 1001

File No.

Cal. No.

"AN ACT CONCERNING THE MUNICIPAL SHARE OF THE REAL ESTATE CONVEYANCE TAX."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 12-494 of the 2008 supplement to the general
4 statutes is repealed and the following is substituted in lieu thereof
5 (*Effective from passage*):

6 (a) There is imposed a tax on each deed, instrument or writing,
7 whereby any lands, tenements or other realty is granted, assigned,
8 transferred or otherwise conveyed to, or vested in, the purchaser, or
9 any other person by his direction, when the consideration for the
10 interest or property conveyed equals or exceeds two thousand dollars,
11 (1) subject to the provisions of subsection (b) of this section, at the rate
12 of five-tenths of one per cent of the consideration for the interest in real
13 property conveyed by such deed, instrument or writing, provided for
14 the fiscal years beginning July 1, 2008, and July 1, 2009, such rate shall

15 be at thirty-five one-hundredths of one per cent, the revenue from
16 which shall be remitted by the town clerk of the municipality in which
17 such tax is paid, not later than ten days following receipt thereof, to the
18 Commissioner of Revenue Services for deposit to the credit of the state
19 General Fund, and (2) at the rate of one-fourth of one per cent of the
20 consideration for the interest in real property conveyed by such deed,
21 instrument or writing, and on and after July 1, [2008] 2010, at the rate
22 of eleven one-hundredths of one per cent of the consideration for the
23 interest in real property conveyed by such deed, instrument or writing,
24 provided the amount imposed under this subdivision shall become
25 part of the general revenue of the municipality in accordance with
26 section 12-499.

27 (b) [The] (1) Except as provided in subdivision (2) of this subsection,
28 the rate of tax imposed under subdivision (1) of subsection (a) of this
29 section shall, in lieu of the rate under said subdivision (1), be imposed
30 on certain conveyances as follows: [(1)] (A) In the case of any
31 conveyance of real property which at the time of such conveyance is
32 used for any purpose other than residential use, except unimproved
33 land, the tax under said subdivision (1) shall be imposed at the rate of
34 one per cent of the consideration for the interest in real property
35 conveyed; [(2)] (B) in the case of any conveyance in which the real
36 property conveyed is a residential estate, including a primary dwelling
37 and any auxiliary housing or structures, regardless of the number of
38 deeds, instruments or writings used to convey such residential real
39 estate, for which the consideration or aggregate consideration, as the
40 case may be, in such conveyance is eight hundred thousand dollars or
41 more, the tax under said subdivision (1) shall be imposed [(A)] (i) at
42 the rate of one-half of one per cent on that portion of such
43 consideration up to and including the amount of eight hundred
44 thousand dollars, and [(B)] (ii) at the rate of one per cent on that
45 portion of such consideration in excess of eight hundred thousand
46 dollars; and [(3)] (C) in the case of any conveyance in which real
47 property on which mortgage payments have been delinquent for not
48 less than six months is conveyed to a financial institution or its

49 subsidiary which holds such a delinquent mortgage on such property,
50 the tax under said subdivision (1) shall be imposed at the rate of one-
51 half of one per cent of the consideration for the interest in real property
52 conveyed. For the purposes of [subdivision (1) of this subsection]
53 subparagraph (A) of this subdivision and subparagraph (A) of
54 subdivision (2) of this subsection, "unimproved land" includes land
55 designated as farm, forest or open space land.

56 (2) For the fiscal years beginning July 1, 2008, and July 1, 2009, the
57 rate of tax imposed under subdivision (1) of subsection (a) of this
58 section shall, in lieu of the rate under said subdivision (1), be imposed
59 on certain conveyances as follows: (A) In the case of any conveyance of
60 real property which at the time of such conveyance is used for any
61 purpose other than residential use, except unimproved land, the tax
62 under said subdivision (1) shall be imposed at the rate of eighty-five
63 one-hundredths of one per cent of the consideration for the interest in
64 real property conveyed; (B) in the case of any conveyance in which the
65 real property conveyed is a residential estate, including a primary
66 dwelling and any auxiliary housing or structures, regardless of the
67 number of deeds, instruments or writings used to convey such
68 residential real estate, for which the consideration or aggregate
69 consideration, as the case may be, in such conveyance is eight hundred
70 thousand dollars or more, the tax under said subdivision (1) shall be
71 imposed (i) at the rate of thirty-five one-hundredths of one per cent on
72 that portion of such consideration up to and including the amount of
73 eight hundred thousand dollars, and (ii) at the rate of eighty-five one-
74 hundredths of one per cent on that portion of such consideration in
75 excess of eight hundred thousand dollars; and (C) in the case of any
76 conveyance in which real property on which mortgage payments have
77 been delinquent for not less than six months is conveyed to a financial
78 institution or its subsidiary which holds such a delinquent mortgage
79 on such property, the tax under said subdivision (1) shall be imposed
80 at the rate of thirty-five one-hundredths of one per cent of the
81 consideration for the interest in real property conveyed.

82 (c) In addition to the tax imposed under subsection (a) of this

83 section, any targeted investment community, as defined in section 32-
84 222, as amended by section 2 of public act 08-34, or any municipality in
85 which properties designated as manufacturing plants under section 32-
86 75c are located, may, on or after March 15, 2003, impose an additional
87 tax on each deed, instrument or writing, whereby any lands, tenements
88 or other realty is granted, assigned, transferred or otherwise conveyed
89 to, or vested in, the purchaser, or any other person by his direction,
90 when the consideration for the interest or property conveyed equals or
91 exceeds two thousand dollars, which additional tax shall be at a rate of
92 up to one-fourth of one per cent of the consideration for the interest in
93 real property conveyed by such deed, instrument or writing. The
94 revenue from such additional tax shall become part of the general
95 revenue of the municipality in accordance with section 12-499.

96 Sec. 2. Subsection (a) of section 12-638b of the general statutes is
97 repealed and the following is substituted in lieu thereof (*Effective from*
98 *passage*):

99 (a) (1) There is hereby imposed a tax on the sale or transfer of a
100 controlling interest in any entity which possesses, directly or
101 indirectly, an interest in real property in this state when the present
102 true and actual value of the interest in real property equals or exceeds
103 two thousand dollars, payable by the person selling or transferring
104 such controlling interest, at the rate of one and eleven one-hundredths
105 of one per cent of the present true and actual value of the interest in
106 real property possessed, directly or indirectly, by such entity, provided
107 for the fiscal years commencing July 1, 2008, and July 1, 2009, said rate
108 shall be ninety-five one-hundredths of one per cent of the present true
109 and actual value of the interest in real property possessed, directly or
110 indirectly, by such entity.

111 (2) A taxable sale or transfer of a controlling interest may occur in
112 one transaction or in a series of transactions. Transactions which occur
113 within six months of each other are presumed, unless shown to the
114 contrary, to be a series of transactions.

115 (3) A taxable sale or transfer of a controlling interest may be made
116 by one seller or transferor or may be made by a group of sellers or
117 transferors acting in concert. Sellers or transferors who are related to
118 each other by blood or marriage are presumed, unless shown to the
119 contrary, to be acting in concert.

120 Sec. 3. (NEW) (*Effective from passage*) (a) As used in this section:

121 (1) "Person" means a person, as defined in section 12-1 of the general
122 statutes;

123 (2) "Affected taxable period" means any taxable period ending on or
124 before March 31, 2008, for which (A) a tax return was required by law
125 to be filed with the Commissioner of Revenue Services and for which
126 no return has been previously filed or made by the commissioner on
127 behalf of such person, (B) a tax return was previously filed but not
128 examined by the Department of Revenue Services and on which return
129 the tax was underreported, (C) interest or a penalty was imposed for
130 the late payment of tax, (D) interest or a penalty was imposed, upon
131 examination of a tax return by the department, for underreporting of
132 the tax, or (E) interest or an addition to tax was made where a person
133 failed to file a tax return and the commissioner made a return on
134 behalf of such person;

135 (3) "Affected person" means a person owing any tax for an affected
136 taxable period;

137 (4) "Tax" means any tax imposed by any law of this state and
138 required to be collected by the department, other than the tax imposed
139 under chapter 222 of the general statutes on any licensee, as defined in
140 subdivision (1) of subsection (c) of section 12-486 of the general
141 statutes;

142 (5) "Commissioner" means the Commissioner of Revenue Services;
143 and

144 (6) "Department" means the Department of Revenue Services.

145 (b) (1) The commissioner shall establish a tax amnesty program for
146 persons owing any tax for any affected taxable period. The tax
147 amnesty program shall be conducted during the period of August 1,
148 2008, to October 31, 2008, inclusive.

149 (2) An amnesty application shall be prepared by the commissioner
150 and shall provide for specification by the affected person of the tax and
151 the affected taxable period for which amnesty is being sought under
152 the tax amnesty program.

153 (3) The tax amnesty program shall provide that, upon the filing of
154 an amnesty application by the affected person during the tax amnesty
155 period, and payment by such person of all taxes and interest due from
156 such person to this state for affected tax periods, amnesty shall be
157 granted to the applicant by the commissioner, and the commissioner
158 shall waive any civil penalties that may be applicable and shall not
159 seek criminal prosecution for any affected person for an affected
160 taxable period for which amnesty has been granted.

161 (4) An amnesty application, if filed by an affected person and if
162 granted by the commissioner, shall constitute an express and absolute
163 relinquishment by the affected person of all of the affected person's
164 administrative and judicial rights of appeal that have not run or
165 otherwise expired as of the date payment is made for affected taxable
166 periods, and no payment made by an affected person pursuant to this
167 section for affected taxable periods shall be refunded or credited to
168 such person.

169 (5) If an affected person who has filed an amnesty application
170 during the tax amnesty period fails to pay all amounts due to this state
171 for affected taxable periods, any amnesty granted pursuant to this
172 section shall be invalid.

173 (6) No waiver of penalty or reduction of interest pursuant to this
174 section shall entitle any affected person to a refund or credit of any
175 amount previously paid.

176 (7) (A) In the case of taxes due for an affected taxable period
177 described in subparagraph (A) or (B) of subdivision (2) of subsection
178 (a) of this section, interest shall be computed at the rate of three-
179 fourths of one per cent per month or fraction thereof from the date
180 such taxes were originally due to October 31, 2008, and at the rate of
181 one per cent per month or fraction thereof thereafter.

182 (B) In the case of taxes due for an affected taxable period described
183 in subparagraph (C), (D) or (E) of subdivision (2) of subsection (a) of
184 this section, interest shall be computed at the rate of one per cent per
185 month or fraction thereof from the date such taxes were originally due
186 to the date of payment, except as provided in this subparagraph. If the
187 taxes and the interest, as computed under this subparagraph, are paid
188 in full on or before October 31, 2008, interest shall be equal to three-
189 fourths of the interest that the department's records show to be due
190 and payable, as of the date of filing of the amnesty application, for
191 affected taxable periods for which amnesty has been sought by an
192 affected person.

193 (c) Amnesty shall not be granted pursuant to subsection (b) of this
194 section to any affected person who (1) has received notice from the
195 department that an audit examination is being conducted in relation to
196 the affected taxable period for which amnesty is being sought, (2) is a
197 party to any criminal investigation or to any civil or criminal litigation
198 that is pending on June 1, 2008, in any court of the United States or this
199 state for failure to file or failure to pay, or for fraud in relation to any
200 tax imposed by any law of this state and required to be collected by the
201 department, (3) is a party to a closing agreement with the
202 Commissioner of Revenue Services, (4) has made an offer of
203 compromise that has been accepted by the Commissioner of Revenue
204 Services, or (5) is a party to a managed audit agreement.

205 (d) Notwithstanding the provisions of section 4-30a of the general
206 statutes, the State Treasurer shall transfer all amounts received
207 pursuant to the amnesty program, as provided in this section, to the
208 General Fund, except for such funds as are required by the

209 commissioner to administer the provisions of this section.

210 (e) The commissioner may do all things necessary in order to
 211 provide for the timely implementation of this section.

212 Sec. 4. (*Effective from passage*) The Commissioner of Revenue Services
 213 may use up to two million dollars of the revenue received by the state
 214 from the tax amnesty program established under the provisions of
 215 section 3 of this act for the purpose of administering the provisions of
 216 said section."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	12-494
Sec. 2	<i>from passage</i>	12-638b(a)
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section